

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 UNITED STATES OF AMERICA,

CASE NO. 10CR04004-LAB

12 Plaintiff,

13 vs

**ORDER DENYING MOTION FOR  
REDUCTION OF SENTENCE UNDER  
18 U.S.C. § 3582(c)(2)**

14 RAMON RIVAS-ARIAS,

Defendant.  
15

16 In 2011, this Court sentenced Ramon Rivas-Arias ("Rivas") to the mandatory  
17 minimum term of 120 months in custody following his guilty plea to importing 4.87 kilograms  
18 of actual methamphetamine into the United States. Rivas's sentence was based on the  
19 statutory mandatory minimum for the offense and not on a guideline range under the United  
20 States Sentencing Guidelines "(U.S.S.G.)".<sup>1</sup> He's now filed a motion under 18  
21 U.S.C. § 3582(c)(2) asking the Court to reduce his sentence.

22 Section 3582(c)(2) permits a court to reduce a defendant's original sentence when  
23 the sentence is "based on" a guideline range that has subsequently been lowered by an  
24 amendment to the Guidelines. After Rivas was sentenced, the U.S. Sentencing Commission  
25 approved Amendment 782 to the Guidelines, which lowered the sentencing range for most  
26 drug offenses by 2 levels. The Commission also voted to make the changes retroactive.

27 ///

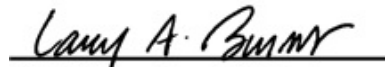
28 \_\_\_\_\_  
<sup>1</sup> Rivas did not receive a departure for Substantial Assistance under U.S.S.G. 5K1.1.

1 But Amendment 782 has no application to Rivas' original sentence since his sentence  
2 resulted from a statutorily-required minimum sentence and was not "based on" the  
3 Guidelines. See *United States v. Rodriguez-Soriano*, 855 F.3d 1040, Slip op. at 12 (9<sup>th</sup> Cir.  
4 May 2, 2017); *United States v. Paulk*, 569 F.3d 1094 (9<sup>th</sup> Cir. 2009) (holding that a defendant  
5 whose sentence was based on the statutory mandatory minimum rather than on the  
6 Sentencing Guidelines was not entitled to a reduction under § 3582(c)(2)).

7 Rivas is not eligible for a sentence reduction under § 3582(c)(2); his motion is  
8 **DENIED.**

9 **IT IS SO ORDERED.**

10 DATED: May 30, 2017

11 

12 **HONORABLE LARRY ALAN BURNS**  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28